IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.434 OF 2005
IN
SUMMARY SUIT NO.1538 OF 2004

Joglekar Refractories and
Ceramics P.Ltd. .. Plaintiffs

Vs.

Mr. Hem Desai and Anr. .. Defendants

Mr.Sanjay Jain with Ms.Sayed Rukhsana i/b Vinod Mistry and Co. for the plaintiffs

Mr.K.K.Shroff i/b Singhi and Co. for defendant no.1 in support of Chamber Summons.

CORAM : S.U.KAMDAR, J
DATED : 31ST AUGUST, 2005

P.C.:

1. The present Chamber Summons is taken out for the purpose of revocation of leave granted under Clause XII of the Letters Patent. The contention raised by the learned counsel for the plaintiffs is that substantial part of cause of action does not arise in the Territorial Jurisdiction of this court and therefore, leave ought not to have been granted under clause XII by this court. He admits that though Ex.A being letter dt.24.8.93 is issued from Bombay but according to him the said letter is addressed at

Ahmedabad and therefore he has signed at Ahmedabad and therefore the entire agreement is not executed at Bombay. He further contends that even in respect of the goods sold and delivered the goods are delivered at Bombay and they are received at Ahmedabad and therefore part of cause of action has arose outside Bombay. He further submits that the payments are made by him at Ahmedabad and the agreement is signed at Ahmedabad and therefore this court shall have no Jurisdiction to entertain and try the present suit even after obtaining leave under Clause 12 of the Letters Patent.

2. As against this, the learned counsel for the defendants has drawn my attention to letter dt.24.8.03 which is infact signed and delivered by the defendants to the plaintiffs on very same day i.e. 24.8.93 and according to him the same was signed at Bombay. In my opinion, without going into the aforesaid controversies once it is held that material part of cause of action has arose in the city of Bombay then in that view of the fact this court is having a concurrent jurisdiction with the courts at Ahmedabad. The parties have by their

agreement recorded on the invoice that the suit transaction is subject to ’Mumbai Jurisdiction’. Thus the parties have chosen the forum being Mumbai and thus, in my opinion this court will have Jurisdiction to entertain and try the present suit. In that view of the matter, Chamber Summons has no merits and the same is accordingly dismissed.